In the High Court of Judicature at Madras

Dated: 20.02.2007

Coram:

The Honourable Mr.Justice P.SATHASIVAM
and
The Honourable Mr.Justice N. PAUL VASANTHAKUMAR

Writ Appeal No.3708 of 2002

1.N.Lakshmanan
2.Rajendran
3.Vadamalal
4.Perumal Reddy
5.Sanjeevi Reddy
6.Chinnappa Reddy
7.Raja
8.Krishnan
9.Palani .. Appellants/Petitioners

Vs..

1.The Collector,
Tiruvallur District,
Tiruvallur.

2.The Tahsildar,
Pallipet Taluk,
Pallipet, Tiruvallur District.

3.The District Forest Officer,
Tiruvallur,
Tiruvallur District.
(R3 impleaded as party
respondent vide order of Court
dt.20.2.2007 made in WAMP.3431/2005) .. Respondents/Respondents

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Writ Appeal filed under Clause 15 of the Letters Patent Appeal against the order passed in W.P.No.29779 of 2002 dated 12.08.2002 presented under under Article 226 of the Constitution of India praying this Court to issue Writ of Mandamus directing the respondents to issue patta in the name of the petitioners as per their possession in Survey No.337/1 situated at Veeranathur Village, Pallipet Taluk, Tiruvallore District, as per proceedings bearing No.R.C.No.235/77/FSO dated 27.07.2002 of the Forest Settlement Officer, Kancheepuram.

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For Appellants : Mr.G.Jermiah for
Mr.P.Krishnan

For respondents : Mr.P.Subramanian
Government Advocate

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM,J.)

The above writ appeal is directed against the order of the learned single Judge dated 12.08.2002 passed in W.P.No.29779 of 2002, in and by which, the learned Judge, after finding no merit, has dismissed the writ petition.

2. Heard the learned counsel appearing for the appellants as well as the learned Government Advocate for the respondents.

` 3. The learned counsel appearing for the appellants, by taking us through the proceedings of Forest Settlement Officer and other documents, has submitted that in view of their possession and recognition by the Forest Department, they are entitled to patta. He also contended that without adverting to those materials, the learned single Judge dismissed the writ petition only on the ground that they are encroachers of the forest land.

4. We have verified the relevant proceedings, which are annexed in the typed set of papers as well as the order of the learned single Judge dated 12.08.2002 and the counter affidavit of the Tahsildar, Pallipat, filed on behalf of the respondents in the writ appeal.

5. It is also relevant to refer the stand taken by the respondents in para 4 of the counter affidavit, which are as follows:-

> "I submit that this is a case in which the encroachers have occupied this land at the time of enquiry by Forest Settlement Officer at the time have considered for the exclusion of this area from Reserve Forest and this particular survey No.... in which encroachment were made.
> Inasmuch as the notification under Section 4 of the Forest Act, 1882 was published for entire portion including the excluded area ordered by the Forest Settlement Officer. Even though the encroached area was excluded by Forest Settlement Officer from the purview of Reserve Forest the earlier notification under Section 4 of the Forest Act, 1882 holds good in respect of excluded portion also. According to the Act, such excluded portion can be assigned only getting concurrence of the Government under Section 24 of the Forest

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Act, 1882. As such any assignment of excluded portion can be done under ordinary assignment rules only after obtaining concurrence of the Government under Section 24 of Forest Act, 1882."

6. In view of the stand of the respondents, we are of the view that ends of justice would be met by permitting the appellants to make a representation to the first respondent, Collector, Thiruvallur District, highlighting their grievance, within a period of two weeks from the date of receipt of a copy of this order. If any such representation/representations are made, the first respondent is directed to consider and dispose of the same in accordance with law within a period of four months thereafter, after affording opportunity to the appellants.

7. The writ appeal is disposed of accordingly. No costs.

8. In view of the assertion that the appellants are in possession of the land in question and also taking note of the injunction order passed by the Division Bench even as early as 09.12.2002 and the same was made absolute on 13.08.2003, it is made clear that their possession shall not be disturbed till final decision being taken by the first respondent as directed above.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

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To

1.The Collector,
Tiruvallur District, Tiruvallur.

2.The Tahsildar,
Pallipet Taluk,
Pallipet, Tiruvallur District.

3.The District Forest Officer,
Tiruvallur, Tiruvallur District.

1 cc To The Government Pleader, SR.10050.

W.A. No.3708 of 2002

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